

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Memorandum 2002-1

TO: All Deputy Mayors, Department, Agency and Office Heads

ORIGINATOR: Anthony A. Williams, MAYOR

SUBJECT: **RULES OF CONDUCT GOVERNING DONATIONS
TO THE DISTRICT GOVERNMENT**

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422(11) of the District of Columbia Home Rule Act, Pub. L. 93-198, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code §§ 1-204.22(11), and section 115 of the District of Columbia Appropriations Act, 2002, ("FY 2002 Appropriations Act") approved December 21, 2001, Pub. L. 107-96, (and any substantially identical successor law), the following rules of conduct are hereby issued. The rules of conduct shall apply to all employees of the District of Columbia government and to all activities covered by Mayor's Order 2002-2, which established the Office of Partnership and Grants Development ("OPGD"). Any District government employee who does not comply with a rule set forth in this memorandum may be subject to adverse personnel action.

I. GENERAL

1. Congress has authorized the District to augment its budget as passed by Congress pursuant to section 115 of the FY 2002 Appropriations Act under which the Mayor must approve the solicitation, acceptance and use of donations of funds, services and property. The Mayor has delegated his authority under section 115 of the FY 2002 Appropriations Act to the Director of the Office of Partnerships and Grants Development ("OPGD").
2. The authority delegated to the Director of OPGD (and her/ his designee) includes approval for donations to the Board of Trustees of the Public Library, the Department of Parks and Recreation, the Commission on the Arts and Humanities and any independent agency except the Council of the District of Columbia and the Board of Education. Although an agency may already have statutory authority to solicit and accept donations, the rules set forth in this memorandum must be followed to meet the requirements of section 115 of the FY 2002 Appropriations Act (or any substantially identical successor law).
3. In order for a donation to be legally authorized, the following requirements must be met:
 - a. Solicitation (if any), acceptance and use of the donation must be approved by the Director of OPGD or her/his designee;
 - b. The donation must be used for an "authorized function or duty" of the District government.
 - c. Use of the donation must be accounted for through record-keeping, audit and accessibility for public inspection.
4. The Director of OPDG is the only official who, on behalf of the Mayor, can approve solicitation or acceptance of donations to the District government, unless that authority has been delegated specifically and directly from the Director of OPGD.

5. Donations may come from individuals, organizations, foundations, corporations, businesses, associations, and other entities and may be in the form of checks, securities, real property (land and improvements), facilities, personal property and services.
6. Donations may be used to fund any District government activity for which appropriated funds may otherwise be used.
7. Any solicitation of donations for the District government must be approved on a form prescribed by the Director of OPGD. The form shall also include a description of the effect (if any) of the donation on future budgets of the District government. The form shall include a description of the purpose for which the donation is sought and a certification that:
 - (a) The donation will be used by an agency or instrumentality of the District government to fulfill an authorized function or duty;
 - (b) The donation is consistent with the agency's plans for its programs and projects;
 - (c) The donation is directly related to, and will be expended solely for, a discrete program and/or purpose; and
 - (d) The donation is consistent with applicable laws and policies.
8. Acceptance of all donations to benefit the District government must also be approved on a form prescribed by the Director of OPGD (which form may be the same form as prescribed in paragraph 7 above). Attached to the form shall be a written donation agreement whose contents are described under section III below. The donation agreement must be signed by authorized representatives of both the donor and the District government.
9. A donation of funds may be accepted only if it is in the form of a check or other negotiable instrument, and made payable to the order of, or endorsed to, the District of Columbia Treasurer. Donation of funds may only be accepted by the OPGD and shall be accepted and forwarded immediately to the Office of the Chief Financial Officer. All monetary gifts received directly by the OPGD must be deposited in an appropriate account and maintained and disbursed under the same standards of accountability and the same safeguards as monies appropriated by Congress. All non-monetary gifts must be accounted for under the same standards and procedures used to account for other similar government property in the *Materiel Management Manual*. To be legally accepted, a donation offered to an agency by a private individual or entity must be approved by the OPGD in accordance with this memorandum.
10. The use of all donations received or disbursed shall be accounted for by the agency for by the agency that uses the donations under the same standards of accounting and the same safeguards that are used for appropriated funds. The agency shall maintain such information in a form suitable for audit and public inspection as directed by the Director of OPGD and the Office of the Chief Financial Officer. The Office of the Chief Financial Officer shall issue a tax receipt to each donor for each donation.

II. REASONS TO DISAPPROVE SOLICITATION OR ACCEPTANCE OF DONATIONS

1. The OPGD shall disapprove solicitation or acceptance of a donation if any of the following circumstances applies:
 - (a) It appears that the donation is being offered with the expectation of obtaining advantage or preference in dealing with the District government or any of its agencies;

- (b) Acceptance would create an appearance or actual conflict of interest for the government employee to whom authority to solicit or accept donations has been delegated;
 - (c) The conditions placed on a donation are inconsistent with the authorized purposes, policies, and/or planning documents of the District government.
 - (d) The intended use of the donation is inconsistent with or otherwise seeks to circumvent laws, regulations or policies;
 - (e) The donation is to an employee for her/his personal use, including but not limited to a "reward", salary, or honorarium;
 - (f) The acceptance of the donation will be used by the donor to state or imply the endorsement by the District government of any product, service or entity; or
 - (g) The donation reasonably may be viewed as funding for political activities.
2. Donations from organizations in which a District government employee is an officer, on the board of directors (including ex-officio) or is otherwise engaged in a leadership or coordinating role with the organization may be accepted only if the donation has been reviewed and approved by the Corporation Counsel.

III. DONATION AGREEMENTS

A donation agreement must accurately describe the donation. To do so, the agreement must be in writing and include the following:

- (1) A statement of the proposed use of the donation and any conditions placed on its use by the donor;
- (2) A statement of the authority for the agency's use of the donation;
- (3) A statement that the donation is a bona fide donation such that the donor does not expect any special treatment from the District government as a result of the donation; and
- (4) A budget of planned expenditures for use of the donation.

IV. ETHICAL CONDUCT

- 1. Failure to follow any provision contained in this memorandum may be considered, at a minimum, as evidence of an official decision outside official channels in violation of the District government's standards of conduct because failure to follow the authorized procedures takes this action outside the scope of official activity. (See § 1803.1 (e) of the D.C. Personnel Regulations.)
- 2. An employee may not use his or her official title, position, or any authority associated with public office to solicit funds for a non-District government organization or otherwise further a private fundraising effort even if the organization donates the funds to the District government. (See § 1803.1 (a) and 1804.1 (b) of the D.C. Personnel Regulations.)
- 3. An employee may engage in the activity of fundraising for a non-District government entity on his or her own time, unless there is a likelihood that the employee may make an official decision or recommendation about the organization.

4. District government entity that interacts with the District government or is regulated by it, may violate the standard of conduct which prohibits a government employee from seeking, either directly or through the intercession of others, any gift, gratuity, favor, loan, entertainment, or other like thing of value from a person who singularly or in concert with another:
 - (a) Has, or is seeking to obtain, contractual or other business or financial relations with the District government;
 - (b) Conducts operations or activities regulated by the District government; or
 - (c) Has an interest that may be favorably affected by the performance or non- performance of the employee's official responsibilities. (*See* § 1803.1 of the D.C Personnel Regulations.)
5. The failure of a government employee to follow District laws with respect to donations to the District government may "adversely affect the confidence of the public in the integrity of government." (*See* § 1803.1 of the D.C. Personnel Regulations.)
6. Under the provisions of the Hatch Act, 5 U.S.C. § 7321 *et seq.*, no employee may solicit funds for a political campaign for any office, either on or off duty.

V. AGENCY PROCEDURES

1. Any person or entity offering an unsolicited donation to an agency shall complete the form prescribed under section 1(8), above, to support its request for approval of the donation.
2. To facilitate the acceptance of donations by OPGD, an agency may:
 - (a) Prepare informational materials identifying projects, programs, or objectives that are appropriate for private sector support;
 - (b) Provide such materials to potential donors and members of the public who request them;
 - (c) Respond to questions about how to donate;
 - (d) Recruit volunteers for the District government's volunteer services; and
 - (e) Assist in the drafting of donation agreements.

VI. RECOGNITION OF DONORS

1. Donors may be recognized for their donations through letters of acceptance and appreciation, press releases, certificates and other items that commemorate the gift.
2. Recognition of corporate donations must not give the impression of advertising, or commercialization. No product names should be used. Examples of acceptable recognition of donations include letters of appreciation, press releases, public events, certificates and other items that commemorate the gift. Short, discrete, unobtrusive donor credit lines may be included on printed material as a recognition.